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Second Lover's Testimony Appears Crucial in F.B.I. Spy Case

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LOS ANGELES, Sept. 11 — At first it seemed like overkill when prosecutors called to the witness stand a second lover of Richard W. Miller, who is on trial here accused of passing classified documents to the Soviet Union by way of his Russian lover.

But the witness, Marta York of Portland, Ore., gave testimony in Federal District Court that turned out to be a key part of the Government case against the first F.B.I. agent ever charged with espionage. She testified that Mr. Miller, whom she cared for, had telephoned her long-distance last year and told her that he had passed a secret document to representatives of the Soviet intelligence service.

Mrs. York testified that in that conversation on Oct. 2, Mr. Miller "said he had been accused of selling confidential material."

"I asked him if he did or he didn't," she testified last week. "He paused. 'I did it only once.'"

Defense to Open Its Case

The Government was preparing to rest its case Thursday after six weeks of testimony by more than 60 witnesses. The defense is expected to begin its presentation later Thursday, contending that Mr. Miller was trying to spy for his country, not against it.

The prosecution team is headed by the United States Attorney in Los Angeles, Robert C. Bonner, in the first courtroom case he has handled in his year and a half as chief prosecutor.

Mr. Miller, a 20-year veteran of the bureau who worked in the foreign counterintelligence unit of the Los Angeles office, was dismissed hours before his arrest on the same day Mrs. York said he made his admission to her.

He is charged with conspiracy to commit espionage with two Soviet émigrés, Svetlana Ogorodnikov, 35 years old, who he admits was his lover, and her husband, Nikolay, 52, and with receiving a bribe. Mr. Miller is also charged with the actual passing of classified information. Mr. Miller was promised \$65,000 and received Mrs. Ogorodnikov's sexual favors for his cooperation, the Government said.

The 48-year-old former agent, who has a wife and eight children, faces life in prison if convicted. He is being held without bond in a maximum security Federal prison here.

In plea-bargain arrangements with the Government, Mrs. Ogorodnikov was sentenced to 18 years after pleading guilty to conspiracy last June and her husband was sentenced to eight years. They are serving their terms.

Testimony by many of the witnesses has stressed Mr. Miller's state of mind as much as his actions. Two bureau agents who worked in the same room with Mr. Miller testified that he broke

down and cried after he was told that he was being suspended for two weeks without pay in April 1984 for his failure after many warnings to bring his weight down to bureau standards. Mr. Miller, who is 5 feet 10 inches, has said he weighed 227 pounds at that time. The bureau standard for Mr. Miller's height is a maximum of 193.

One of those agents, Nancy Smith, said she had overheard "hundreds" of Mr. Miller's personal telephone conversations and that 90 percent of them dealt with his financial, job, family and sexual problems. The other agent, John Justice, testified that Mr. Miller was embittered by the suspension "and told me he wanted to quit his job and leave his family."

'Classic Target for Recruitment'

The culmination of Mr. Miller's problems in the spring of 1984, the prosecution contended, brought him to a crossroads that made him "a classic target for Soviet recruitment." A month later, according to statements Mr. Miller has made in the case, he was approached by Mrs. Ogorodnikov.

Mr. Miller has denied that he was engaged in espionage. His defense lawyers argued before the jury that he was attempting to pull off an ambitious but unorthodox scheme to use the Ogorodnikovs to infiltrate Soviet intelligence. He felt that if he had succeeded, the defense lawyers, Stanley Greenberg and Joel Levine, said, he would have become a hero and redeemed himself and his deteriorating career in the bureau.

Early in the trial, Mr. Greenberg told the jury to think of his client as a "Ralph Kramden," the bumbling Brooklyn bus driver created on television by the comedian Jackie Gleason, but "without the humor."

The prosecution focused much of its attention on the testimony of a series of bureau agents who participated in the special team that investigated Mr. Miller's activities beginning last September, after he came under suspicion.

Mr. Miller was questioned for five days before he was arrested and he made what he concedes were increasingly damaging statements. After the questioning, the F.B.I. announced that Mr. Miller had confessed he had passed secret information to the Soviet Union.

Key testimony was provided by Paul K. Minor, the bureau's top polygraph, or lie-detector, expert from Washington. Mr. Minor told the jury that Mr. Miller had admitted passing a classified document to Mrs. Ogorodnikov, a 53-page 1984 tract titled "Reporting Guidance: Foreign Intelligence Information."

Mr. Minor said further that Mr. Miller, apparently contrite about potential damage, told bureau investigators that

they "could assume" Soviet agents had seen "not more" than a group of bureau documents he had kept in his home. However, this was taken by the Government as confirmation that Russian agents had, in fact, seen the documents, some of the classified, which the bureau said he had in his home without authorization.

Mr. Bonner told the jury that a half-dozen bureau documents were found in a search of Mr. Miller's house. But from the moment Mr. Miller's arrest was disclosed last year, in an emotional briefing by the bureau's Los Angeles chief, Richard T. Bretzing, continuing through the trial, it was the reporting guide that seemed to arouse the greatest Government concern. It has been described by the bureau as being capable of revealing to Soviet intelligence some of the objectives and techniques of American counterintelligence efforts.

Sought Bureau Assistance

The defense lawyers have attempted to argue that Mr. Miller was only trying to snare a Soviet spy cell using F.B.I. techniques that had been practiced before, although never, they emphasized, so ineptly.

The defense noted that Mr. Miller voluntarily told his superior in counterintelligence, P. Bryce Christensen, of his activities with the Russian woman on Sept. 27, 1984, because by then he wanted bureau assistance.

But Mr. Bonner introduced the testimony of another bureau agent who said that he had seen Mr. Miller and Mrs. Ogorodnikov together in a park shortly before that, and he and the defendant had made eye contact.

Mr. Miller has contended that he was kept on in the sensitive counterintelligence work despite his professional shortcomings because both Mr. Bretzing and Mr. Christensen, like himself, are Mormons.

Mr. Christensen, on the stand, testified that he had taken Mr. Miller into his squad because Mr. Miller needed more supervision. But he also testified that "part" of the reason was that Mr. Miller was a fellow Mormon, or member of the Church of Jesus Christ of Latter-day Saints.